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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/572,710

03/17/2006

Dong Zhu

884A.0129.U1(US)

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29683 7590 07/20/2010

HARRINGTON & SMITH
4 RESEARCH DRIVE, Suite 202
SHELTON, CT 06484-6212

EXAMINER

HANNON, CHRISTIAN A

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

07/20/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|--|--|---|--|
| <p align="center">Advisory Action Before the Filing of an Appeal Brief</p> | <p>Application No. 10/572,710</p> | <p>Applicant(s) ZHU ET AL.</p> | |
| | <p>Examiner CHRISTIAN A. HANNON</p> | <p>Art Unit 2618</p> | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 June 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Edward Urban/
Supervisory Patent Examiner, Art Unit 2618

/C. A. H./
Examiner, Art Unit 2618
July 16, 2010

Continuation of 11. does NOT place the application in condition for allowance because: In response to Applicant's argument that embodiments of the present invention, an inclination mode enables a telephone to function as an inclinometer, so a user may measure an incline therewith, the Examiner does not dispute this (see page 4 of Applicant remarks). The Examiner has merely interpreted the disclosed mode of operation by Kaplan, that mode which affects the geo-spatial user input system, as an inclinometer mode. Nothing in the claimed language provides anything to differentiate from such an interpretation, and as the Examiner has reasonably interpreted the mode of Kaplan as the analogous mode to the claim, the rejection is viewed as proper. It is further noted that the Examiner did not rely on Kaplan to disclose a bar displayed by a display having an area smaller than the display (see *Id.*); the Examiner relied on Salmi to meet this limitation. In response to the Applicant's arguments that Kaplan's backgrounds ties it to a computer, it is respectfully submitted that it is known, and highly obvious for device users to use only one hand to operate a device, furthermore such a limitation is not required by the claim (see Applicant's remarks page 5). In response to Applicant's arguments concerning the combination of the references Kaplan and Salmi, it is noted that under *KSR v. Teleflex*, there need be no explicit suggestion, teaching or motivation to combine the prior art (see page 7 Applicant's remarks). The Examiner's showing of predictable results is sufficient to combine the prior art under the obviousness doctrine. It is submitted by the examiner, that the display functionality of Salmi and the inclinometer teachings of Kaplan are readily combined to one of ordinary skill in the art, especially since one (Kaplan) is a means to control the other (Salmi) which yield predictable results. For reasons similar to claim 1 claim 11 and 15 remain rejected. It is further submitted that as all independent claims remain rejected, for at least this reason the dependent claims therefrom too remain rejected for the reasons set forth in the final rejection mailed 4/29/2010.